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this Memorandum Decision shall not be
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**IN THE
COURT OF APPEALS OF INDIANA**

BRYANT CLARK,

Appellant-Defendant,

vs.

STATE OF INDIANA,

Appellee-Plaintiff.

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No. 49A02-0505-CR-399

APPEAL FROM THE MARION SUPERIOR COURT
The Honorable Patricia J. Gifford, Judge
Cause No. 49G04-9911-CF-194521

October 13, 2006

MEMORANDUM DECISION - NOT FOR PUBLICATION

BAKER, Judge

Appellant-defendant Bryant Clark appeals following his guilty pleas under three cause numbers to thirty-four counts of various offenses.¹ Specifically, Clark argues that the trial court erred in failing to advise him of his right to appeal following a guilty plea and that a number of his convictions run afoul of double jeopardy principles. Finding no error, we affirm the judgment of the trial court.

FACTS

Cause No. 49G04-0001-CF-004811

On October 25, 1999, Clark, Jamie Carson, and Joshua Powell broke into three different apartments in Indianapolis. The perpetrators brandished handguns, beat their three victims, tied them up, and stole various items, including two vehicles. Two of the victims required hospital care.

On October 28, 1999, Clark, Carson, and Powell broke into two apartments in Indianapolis at approximately 9:00 a.m. They brandished guns and a kitchen knife, ransacked the apartments, tied up their ten victims, many of whom suffered contusions to the head, and stole cash and personal items.

On March 18, 2002, Clark pleaded guilty to eleven counts of Robbery,² a class B felony, one count of Criminal Confinement,³ a class B felony, and two counts of Carrying a Handgun Without a License,⁴ a class A misdemeanor. The trial court imposed a sentence of

¹ Clark's offenses will be more fully described below.

² Ind. Code § 35-42-5-1.

³ I.C. § 35-42-3(b)(2).

⁴ Ind. Code § 35-47-2-23(c).

twenty years for each class B felony count and one year for each class A misdemeanor count, to be served concurrently, for an aggregate sentence of twenty years.

Cause No. 49G04-9911-CF-192546

On October 27, 1999, Clark, Carson, and Powell broke into an apartment in Indianapolis. The perpetrators brandished handguns, bound their victims, ransacked the apartment for over two hours, rolled and smoked a marijuana cigarette in the apartment, and took various items, including a vehicle. On March 18, 2002, Clark pleaded guilty to two counts of class B felony robbery and received a sentence of twenty years for each count, to be served concurrently, for an aggregate sentence of twenty years.

Cause No. 49G04-9911-CF-194521

On October 28, 1999, Clark, Carson, and Powell broke into an apartment in Indianapolis at approximately 6:30 a.m. The perpetrators forced their two male victims to perform fellatio on each other at gunpoint. Clark, Carson, and Powell tied the two victims together and began beating and whipping them with belts. Clark and Carson pressed a hot iron against both victims, causing the two victims to sustain burns on multiple body parts. One of the perpetrators then poured bleach on the wounds of one of the victims and then forced him to drink the bleach. One of the perpetrators set fire to some newspapers and magazines in the living room and another perpetrator later extinguished the fire. After Clark, Carson, and Powell left the apartment, the victims called 911 and were later treated for their burns.

On November 5, 1999, the State charged Clark with two counts of Criminal Deviate Conduct,⁵ a class A felony, one count of class A felony robbery, one count of Attempted Robbery,⁶ a class A felony, two counts of class B felony criminal confinement, and one count of class A misdemeanor carrying a handgun without a license.

On March 18, 2002, Clark pleaded guilty to two counts of class A felony criminal deviate conduct, one count of class A felony robbery, one count of class A felony attempted robbery, and one count of class A misdemeanor carrying a handgun without a license. After a sentencing hearing, on May 22, 2002, the trial court sentenced Clark to fifty years for each class A felony conviction and one year for the class A misdemeanor conviction, to be served concurrently, for an aggregate sentence of fifty years.

Clark's plea agreement incorporated the other two cause numbers and provided that Clark would serve an aggregate term of at least thirty and no more than eighty years in prison for all three causes. The trial court ordered the sentences from all three cause numbers to be served concurrently, for a total aggregate sentence of fifty years.⁷ Clark now appeals.

DISCUSSION AND DECISION

I. Advisement of Right to Appeal

Clark argues that the trial court erred in advising him that by pleading guilty, he waived his right to appeal his conviction. He directs our attention to Collins v. State, in

⁵ I.C. § 35-42-4-2(b).

⁶ Ind. Code §§ 35-41-5-1, -42-5-1.

which our Supreme Court held that a defendant who entered into an open plea should challenge his sentence by direct appeal. 817 N.E.2d 230 (Ind. 2004). But Clark entered into his guilty plea in 2002, two years before Collins was decided. Thus, at the time he pleaded guilty, the trial court advised him correctly. Moreover, inasmuch as Clark is now pursuing a direct, albeit a belated, appeal, he can establish no harm resulting from the trial court's advice. Thus, we conclude that the trial court properly advised Clark with respect to his right to appeal.

II. Double Jeopardy

Clark next contends that a number of his convictions run afoul of double jeopardy principles. We direct Clark to Mapp v. State, in which our Supreme Court held that a defendant who enters into a plea agreement waives his right to challenge his convictions on double jeopardy grounds:

Plea bargaining is a tool used by both prosecutors and defendants to expedite the trial process. Defendants waive a whole panoply of rights by voluntarily pleading guilty. These include the right to a jury trial, the right against self-incrimination, the right of appeal, and the right to attack collaterally one's plea based on double jeopardy.

770 N.E.2d 332, 334-35 (Ind. 2002) (emphasis added) (footnote omitted); see also Games v. State, 743 N.E.2d 1132, 1135 (Ind. 2001) ("defendants who plead guilty to achieve favorable outcomes in the process of bargaining give up a plethora of substantive claims and

⁷ Although the plea agreement incorporated all three cause numbers, apparently the causes were not consolidated below and have not been consolidated on appeal. Consequently, the only cause being directly appealed is 49G03-9911-CR-194521.

procedural rights,” including double jeopardy challenges). Thus, we will not address Clark’s double jeopardy arguments on appeal.

The judgment of the trial court is affirmed.

VAIDIK, J., and CRONE, J., concur.